

Offered by Councilor Michael P. Ross and Salvatore LaMattina



CITY OF BOSTON

IN THE YEAR TWO THOUSAND AND TEN

An Ordinance Promoting Economic Development and the Food Truck Industry in the City of Boston

- WHEREAS,* The food service industry may be the world's most widespread industry, include restaurants establishments such as fast-food eateries, formal dining and mobile trucks; and,
- WHEREAS,* According to the U.S. Bureau of Labor Statistics, the food services and drinking places industry ranks among the Nation's leading employers with nearly 10 million wage and salary jobs; and,
- WHEREAS,* Recently, mobile food catering units have become extremely popular and profitable in urban settings such as Los Angeles, New York, Houston, Philadelphia, San Francisco, Atlanta, Seattle, Miami, Austin, Portland and Washington D.C. to name a few; and,
- WHEREAS,* The mobile food industry has the unique potential to create new employment opportunities, small business growth and favorable conditions for culinary entrepreneurs in Boston and its neighborhoods; and,
- WHEREAS,* According to the National Restaurant Association, there is an increasing demand, particularly among people 18 to 44, for freshly prepared, restaurant-quality food that can be had quick and cheap; and,
- WHEREAS,* Council staff research has revealed that cities around the country have, at best, made incremental strides in regulating the complexities of the mobile food vendor industry, including efforts to find solutions to problems created by the industry, such as issues around parking, traffic and waste disposal; and,
- WHEREAS,* Vendors in the mobile catering industry have faced complex rules and regulations in other communities, the following language is being set forth to streamline administrative processes, effectively work with the industry and secure the highest quality of life for all Bostonians;
NOW,

Be it ordained by the City Council of Boston, as follows that the City of Boston Code be amended by adding the following ordinance:

Section 1. CBC Chapter XVII is hereby amended by striking out Section 17-10 RESERVED in its entirety and inserting in place thereof the following:--

17-10 Permitting and Regulation of Catering Trucks

17-10.1 Definitions

When used in this section, unless the context otherwise requires, the following terms shall have the following meanings:

- a. *Commissioner* shall mean the Commissioner of Transportation of the City of Boston or his designee.
- b. *Department* shall mean the Department of Transportation of the City of Boston.
- c. *Food Establishment* shall mean a business operation that stores, prepares, packages, serves, vends or otherwise provides food for human consumption as proscribed in the State Sanitary Code 105 C.M.R. 590.002:.
- d. *Mobile Food Catering Vehicle* shall mean a food establishment located upon a vehicle, such as a canteen truck or mobile kitchen, where food is prepared or served for individual portion service. The definition of a mobile food catering vehicle shall not include ice cream trucks or food vending push carts, bicycles and stands. A mobile food catering vehicle shall be for, the purposes this section, Zoning and assessment, be considered an eating establishment and restaurant.
- e. *Mobile Food Commissary* shall mean a food establishment or other facility which provides the following services to one or more mobile food catering vehicles:
 - 1. Storage of the Vehicle when the vehicle is not being used for vending;
 - 2. Cleaning and sanitizing of the vehicle;
 - 3. Cleaning and sanitizing of the equipment and utensils used on a vehicle;
 - 4. Disposing of liquid and solid wastes and refuse generated by the operation of a vehicle; and
 - 5. Supplying of potable water and food, whether pre-packaged by the manufacturer, or prepare at the commissary, and furnishing of non-food supplies.

17-10.2 Scope and Regulations

- a. The provisions of this section shall apply to mobile food operations engaged in the business of the sale of foods with charge, and foods distributed without charge, from mobile food vending vehicles on or in public, private and restricted spaces. This section shall not apply to ice cream trucks or food vending push carts, bicycles and stands.
- b. Mobile food catering vehicles shall comply with all applicable Zoning, Building, Fire and Health Codes, and the State Sanitary Code section on Mobile Food Operations 105

C.M.R. 590.009(B) and may be subject to other fees, permits, inspections, and registrations.

- c. The Commissioner shall promulgate regulations necessary for the administration and enforcement of this section.
 - 1. The Commissioner is hereby authorized to exercise broad latitude to work with other departments of the city to establish a streamlined process for the permitting of mobile food catering vehicles.
 - 2. The Commissioner may take advisement from an industry-led taskforce, comprised of mobile food catering vehicle permit holders, in developing acceptable routes of operation throughout the city and establishing industry standards, such as the use of GPS devices, and other matters.
 - 3. In promulgating regulations and reviewing applications for mobile food catering vehicles, the Commissioner may give preferential treatment to proposals that contain sustainable and environmentally friendly practices, including the use of energy-efficient vehicles, or that contain socially responsible practices, including charitable components to the business of operation, school nutrition programs, or programs for children or the homeless.

17-10.3 Mobile Food Catering Vehicle Permit Required

- a. *Mobile Food Catering Vehicles.* No person, including a religious or charitable organization, shall operate a mobile food catering vehicle in any public, private or restricted space without a permit, for the use of city streets, issued by the Commissioner. A permit issued for a mobile food catering vehicle shall be valid for one year unless sooner suspended or revoked by the Commissioner.
- b. *Limit on the Number of Permits.* There shall be no more than twenty-five (25) permits for mobile food catering vehicles per year. Option for renewal of a mobile food catering permit shall be revoked thirty (30) days after its one year expiry, at which time the permit holder shall forfeit the right to renew and the permit shall be made available to another applicant for new permit if the maximum number of allowed permits was previously reached.
- c. *Permit Requirements.* After a mobile food catering vehicle passes all required inspections, the Commissioner shall issue a permit document to the applicant provided that the applicant has satisfied all other requirements:
 - 1. *Service Route.* The applicant must submit a proposal, subject to the approval of the Commissioner, describing the route of operation with a detailed schedule of times and locations where the mobile food catering vehicle shall be stationary and serving food. The approved service route shall be listed on the permit issued by the Commissioner.
 - i. *Restrictions.*

1. No operator of a mobile food catering vehicle shall park or stand:
 - a. within 100 feet of a food establishment that offers a similar service; and
 - b. at specified locations and during special events as determined by the Commissioner through regulations as he may prescribe from time to time.
2. No operator of a mobile food catering vehicle shall park, stand, or move a vehicle within areas of the city where mobile food catering vehicles are, as determined by the Commissioner, prohibited or limited.
2. *Mobile Food Commissary Required.* The applicant must provide proof satisfactory to the Department that the mobile food catering vehicle is supplied and serviced from a fixed, licensed food establishment, or food processing plant, serving as a mobile food commissary and shall report at least daily to such locations for all food, water and supplies and for all cleaning and servicing operations. Mobile food catering Vehicle operators shall retain the list of ingredients and the receipt for all bulk foods, which must indicate the name of the food item, the date purchased and the name of the approved food source licensed.
3. *Food safety training.* The applicant must present proof satisfactory that at least one-full time equivalent employee has demonstrated a knowledge of food safety as a certified food protection manager showing proficiency of required information through passing a test that is part of an accredited program recognized by the Massachusetts Department of Public Health. This certification shall be prominently posted in the establishment next to the food establishment permit.
4. *Access to toilets.* The applicant must present proof of availability of restroom facilities with flushable toilets and wash basins for hand washing for the use of the mobile food Vehicle employees located in a business establishment within 500 feet of each location where the mobile food vehicle will be in operation for more than 1 hour in any single day. Proof of availability of adequate facilities shall be in the form of a written statement from the owner or owner's agent, including the name, address and telephone number of the property owner or authorized agent, and the type of business and hours of operation, granting permission for use of the facilities. If the business owner is a partnership or corporation, the statement shall include the name, address, and telephone number of one of the partners or officers.
- d. *Inspection of mobile food catering vehicle.* No mobile food catering vehicle permit shall be issued until the Department determines, upon inspection, that the vehicle is of sanitary construction and design. The Department may work in conjunction with the Boston Fire Department and the Department of Inspectional Services Division of Health Inspections to conduct its inspections of mobile food catering vehicles. Regarding design:

1. No mobile food catering vehicle shall make or cause to be made any unreasonable or excessive noise in violation of CBC 16-26.1.
2. There shall be no use of LED lights upon the façade or affixed to the exterior of a mobile food catering vehicle.

17-10.4 Health and Food Safety Permits Required

- a. *Health Permits and Food Safety Permit.* No mobile food catering vehicle shall be operated in any public, private or restricted space without having current health and food service permits issued by the Department of Inspectional Services Division of Health Inspections, pursuant to the State Food Sanitation Code 105 C.M.R. 390.
- b. *Documentation required.* No person shall operate any mobile food catering vehicle unless he or she is carrying both the original mobile food service permit issued to such person and the original mobile food catering vehicle permit documents. The permits shall be exhibited upon demand to any police officer, Department employee or agent, or other authorized officer, employee or agent of the City.

17-10.5 Permit Fees

- a. *Fees.* The fee for a permit to operate a mobile food catering vehicle, issued by the Department, shall be determined based on a taxable market valuation of city property by the Assessing Department, including sidewalks, from which mobile food catering vehicles shall stand according to a route of operation submitted with a proposal and approved by the Commissioner.

17-10.6 Prohibition Against the Transfer of a Permit.

- a. *Transfers prohibited.* No person holding a permit for a mobile food catering vehicle shall sell, lend, lease or in any manner transfer his or her permit.
- b. *Unauthorized transfer voids permit.* Any unauthorized transfer or attempt to transfer a permit shall automatically void such permit. Whoever violates this provision, including both the transferor and transferee, shall be subject to a fine of no less than three hundred (\$300) dollars. The unauthorized transfer or attempt to transfer of each permit shall constitute a separate violation.

17-10.7 Operation of Mobile Food Catering Vehicles

- a. *Operation without permit.* Any mobile food catering vehicle being operated without a currently valid mobile food catering vehicle permit issued by the Commissioner shall be deemed an imminent health and traffic hazard and may be seized by the Department and all the food therein denatured or otherwise disposed of.
- b. *Unattended Vehicles prohibited.* No mobile food catering vehicle shall be parked on the street overnight, or left unattended at any time food is kept in the mobile food catering vehicle.

1. Any mobile food catering vehicle which is found to be unattended or which a vendor has abandoned shall be considered an imminent health and traffic hazard subject to the provisions of section 17-10.4(a).
2. A fine of up to three hundred (\$300) dollars may be issued by the Department or the Boston Police Department for abandoning a mobile food catering vehicle or leaving such vehicle unattended shall, in the absence of the operator of such vehicle.
- c. *Removal costs.* A mobile food catering vehicle and its contents that are seized pursuant to this section, or other applicable law, may be removed to any garage, automobile pound or other place of safety, and the owner, or other person lawfully entitled to the possession of such vehicle may be charged with reasonable costs for such removal and storage, payable prior to the release of the mobile food catering vehicle.
- d. *Seating.* No mobile food catering vehicle shall provide or allow any dining area, including but not limited to tables, chairs, booths, bar stools, benches, and standup counters, within 100 feet of the mobile food unit.

17-10.8 Enforcement

- a. The provisions of this section may be enforced jointly by the Department, the Boston Police Department, and the Inspection Services Department.